

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of A.J. WALRATH and U.S. POSTAL SERVICE,
POST OFFICE, Akron, Ohio

*Docket No. 96-2079; Submitted on the Record;
Issued May 18, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained an injury on October 15, 1993 in the performance of duty, causally related to factors of his federal employment.

On November 3, 1993 appellant, then a 51-year-old letter carrier, filed a claim alleging that on October 15, 1993 as he was casing mail, he turned to put mail in a rear case and felt a searing pain in his back which radiated down both legs. Appellant's treating physician indicated that he was partially disabled from October 25 to December 1, 1993 and could perform sedentary duty. On December 2, 1993 appellant underwent a discectomy at L4-5 for a ruptured disc.

The Office of Workers' Compensation Programs requested further information, which was provided by appellant in the form of argument regarding the employing establishment's actions following his claimed injury.

By decision dated February 4, 1994, the Office rejected appellant's claim finding that the evidence of record failed to establish that an injury occurred as alleged.

Appellant requested reconsideration, and in support he submitted a March 21, 1994 report from Dr. Matthew P. Finneran, a Board-certified family practitioner. Dr. Finneran stated that appellant sustained "reinjury to his back" on October 15, 1993 "while casing mail." Dr. Finneran noted that after his injury appellant was evaluated by Dr. Peter B. Sinks, an internist, who opined that appellant had a mild disc protrusion as a result of his October 15, 1993 injury. Dr. Finneran noted that appellant had acute back strain with aggravation of his lumbar disc disease with acute herniation, and he opined: "It is my opinion that there is a direct relationship between [appellant's] twisting movement while working to file mail and his acute herniated disc."

In a March 4, 1994 medical progress note, Dr. Frank R. Boumphrey, a Board-certified orthopedic surgeon, noted that appellant "injured himself at work on October 15, 1993, he was

twisting while putting mail in cases.” Dr. Boumphrey noted that a magnetic resonance imaging scan one week later showed a recurrent disc herniation, for which appellant underwent surgery, and he opined, “It is within a reasonable degree of medical certainty that this recurrent disc was related to his injury at work.” A December 2, 1993 operative report noted a postoperative diagnosis of status post laminectomy with herniated nucleus pulposus at L4-5 with spinal stenosis.

On July 14, 1994 the Office denied appellant’s request for a hearing, noting that it was untimely requested and that appellant could submit further medical evidence to the Office with a request for reconsideration.

On February 16, 1996 appellant, through his representative, again requested reconsideration and resubmitted the previously submitted evidence.

By decision dated May 6, 1996, the Office denied modification of the prior decision finding that the evidence submitted was not sufficient to warrant modification. The Office noted that, although Dr. Finneran supported appellant’s claim, he failed to provide medical reasoning to support his opinion. The Office noted that Dr. Boumphrey also provided an affirmative opinion on causal relationship, but noted that he, too, failed to provide medical reasons in support of his opinion. The Office found both affirmative opinions were of little substantial probative value.

The Board finds that this case is not in posture for decision.

Proceedings under the Federal Employees’ Compensation Act are not adversary in nature, nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.¹ In the instant case, although neither of appellant’s treating physicians’ reports contain rationale sufficient to completely discharge appellant’s burden of proving by the weight of reliable, substantial and probative evidence that he sustained an October 15, 1993 injury, they constitute substantial, uncontradicted evidence in support of appellant’s claim and raise an uncontroverted inference of causal relationship between his disabling complaints and post-surgical period of disability and his original traumatic injury, that is sufficient to require further development of the case record by the Office.² Additionally, there is no opposing medical evidence in the record.

As both of appellant’s treating physicians affirmatively supported causal relation, the fact that they lacked extensively rationalized explanations of how the mechanics of twisting behind him caused his disc herniation is not fatal to appellant’s claim. It is not necessary that the evidence be so conclusive as to suggest causal connection beyond all possible doubt in the mind of a medical scientist. The evidence required is only that necessary to convince the adjudicator

¹ *William J. Cantrell*, 34 ECAB 1223 (1983).

² *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978); *see also Cheryl A. Monnell*, 40 ECAB 545 (1989); *Bobby W. Hornbuckle*, 38 ECAB 626 (1987).

that the conclusion drawn is rational, sound and logical.³ The evidence in this case appears rational, sound and logical, and only lacks the expanded medical rationale which would be forthcoming with appropriate further development.

Consequently, the decision of the Office of Workers' Compensation Programs dated May 16, 1996 is hereby set aside, and the case is remanded for further development in accordance with this decision and order of the Board.

Dated, Washington, D.C.
May 18, 1998

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

³ *Robert P. Bourgeois*, 45 ECAB 745 (1994).